IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 12436 of 2005

Between:

Smt. Bonthu Lakshmi, W/o. Jawaharlal,
R/o. Medapadu Village, Yalamanchili Mandal, West Godavari District.

..... PETITIONER

AND

1 The District Collector, West Godavari District, Eluru.
2 The Revenue Divisional Officer, Narsapuram Division, Narsapuram, West Godavari District.
3 The Mandal Revenue Officer, Yellamanchilli Mandal, West Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the notification No. Roc.F5, G2, 19/2005, dt. 20-04-2005 & 11-05-2005, issued under Section 4(1) & 6 of the Land Acquisition Act, respectively in acquiring the Petitioners land an extent of Ac. 0.40 cents in R.S.No. 268/1 of Medapadu Village, Yellamanchili Mandal, West Godavari District without conducting any enquiry, as arbitrary, illegal, null and void and is against the principles of natural justice and norms of the public policy and contrary to the provisions of land Acquisition Act, and to further directing the directing the Respondent to delete land from the acquisition proceedings and to pass such other order or orders.

Counsel for the Petitioner: MR.VENKATESWARA RAO GUDAPATI

Counsel for the Respondent No.: GP FOR REVENUE

The Court at the stage of admission made the following :

ORDER:

Heard both sides.

In this Writ Petition, petitioner is seeking a Writ of Mandamus, declaring the notification No. Roc F5, 62, 19/2005 dated 20.4.2005 and 11.5.2005, issued under Section 4(1) and 6 of the Land Acquisition Act, respectively in acquiring the petitioner's land to an extent of Ac. 0.40 cents, in R.S.No. 268/1 of Medapadu Village, Yellamanchili Mandal, West godavari District without conducting any enquiry, as arbitrary, illegal, null and void and is against the principles of natural justice.

The learned counsel appearing for the petitioner submitted that the petitioner's father Kukkala Narasimhamurthy owns an extent of Ac. 9.31 cents in Medapadu Village of Yellamanchili Mandal of West Godavari District in R/s No. 274/1. It is also submitted that in the year 1961 the Gram Panchayat requested the father of the petitioner to donate an extent of Ac. 2.00 for the purpose of construction of Government Primary Health Centre and in pursuance of the request made, the petitioner's father donated the land by way of registered gift deed dated 27.09.1961 and the rest of the land has been under cultivation. After the demise of the father of

the petitioner, being the legal heir, she is cultivating the land without any interference and she is enjoying the property. While so, the respondent authorities have issued a notification under Section 4(1) of the Land Acquisition Act dated 20.4.2005, by dispensing the section 5(A) enquiry for acquiring an extent of Ac. 0.40 cents of land for the purpose of house sites. It is submitted that the respondent authorities have also issued a draft declaration under Section 6 dated 11.5.2005 and are taking the possession of the property within 15 days. The grievance of the petitioner is that the respondents invoked the urgency clause under Section 17 of the Act and dispensed with the enquiry, therefore, the petitioner has no opportunity to submit his case during enquiry.

Considering the above facts and circumstances, I deem it appropriate to direct the respondents to give an opportunity to the petitioner to submit his case, before finalizing the Land Acquisition Proceedings.

For these reasons, I am not inclined to set aside the notification issued under Section 4(1) of the Act by the Government, notifying to acquire an extent of Ac. 0.40 cents in R.S.No. 268/1 of Medapadu Vilalge, Yellamanchili Mandal, West Godavari District. However, having regard to the submission of the petitioner that his father has already donated Ac. 2.00 of lands for construction of Government Primary Health Centre, I am of the considered view that the ends of justice would be met by directing the respondents to give an opportunity to the petitioner to explain her case for consideration of the respondents. Therefore, the respondents are directed to conduct enquiry under Section 5-A of the Act and take appropriate steps. Consequently, the action of the respondents in dispensing with Section 5-A enquiry is held to be invalid and is accordingly set aside.

The Writ Petition is accordingly disposed of. No order as to costs.

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E. DHARMA RAO, J

DATED: 14/06/2005

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To

1 The District Collector, West Godavari District, Eluru.
2 The Revenue Divisional Officer, Narsapuram Division, Narsapuram, West Godavari District.
3 The Mandal Revenue Officer, Yellamanchilli Mandal, West Godavari District.

4. Two CCs to G.P. for Revenue, High Court of A.P., Hyderabad (OUT)